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November 16, 1998

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Mr. Bruce Halstead
United States Fish and Wildlife Service
1125 16th Street, Room 209
Arcata, California 95521-5582
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Dear Mr. Halstead:

I write to comment on the October 1998 document entitled *Draft Environmental Impact Statement/Environmental Impact Report for the Headwaters Forest Acquisition and the PALCO Sustained Yield Plan and Habitat Conservation Plan [EIS/EIR]*. This letter addresses the potential effects of the proposed federal undertaking, as well as ongoing and proposed state-regulated activities, upon archaeological, historical, and traditional cultural resources in the project area.

The EIS/EIR documents an appropriate beginning of cultural resources studies: a records search from the regional Information Center of the California Historical Resources Inventory, contact with the Native American Heritage Commission and tribal representatives with interest in the project area, and preparation of background information from the results of archival research. The researchers inexplicably stopped, however, prior to completing the initial stage of compliance with the federal and state regulations which pertain to cultural resources: a comprehensive, well-documented archaeological and historical field survey by researchers meeting the Secretary of the Interior's standards for identifying and evaluating the kinds of resources likely to be present within the project's Area of Potential Effects (APE).

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The EIS/EIR tells us:

- ♦ *Lands within the proposed Headwaters Reserve are virtually unsurveyed.*
- ♦ *Roughly 20 percent, or around 40,000 acres, of the PALCO lands included in the HCP/SYP has been surveyed.*

Please refer to the National Environmental Policy Act of 1969 (42 U.S.C. Section 4332): *The Congress authorizes and directs that, to the fullest extent possible . . . all agencies of the Federal Government shall . . . (C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—(i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. Prior to making any detailed*

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statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved.

Section 3.15 of the EIS/EIR states correctly that the HCP, and the proposed purchase and future management of the proposed Headwaters Preserve, constitute a Federal undertaking subject to the National Historic Preservation Act (NHPA) and its regulations, 36 CFR Part 800: "Undertaking" means any project, activity or program that can result in changes in the character or use of historic properties, if any such historic properties are located in the area of potential effects. The project, activity, or program must be under the direct or indirect jurisdiction of a Federal agency or licensed and assisted by a Federal agency [36 CFR 800.2(o)]."

36 CFR Part 800 directs the lead federal agency to take into account the potential effects of the project upon cultural resources, to apply the regulations implementing Section 106 of the NHPA, and on this basis request the concurrence of the State Historic Preservation Officer that the process has been satisfactorily completed: *In consultation with the State Historic Preservation Officer, the Agency Official shall apply the Criteria of Effect (part 800.9(a)) to historic properties that may be affected, giving consideration to the views, if any, of interested persons.*

After an inventory of archaeological, historical and traditional cultural resources is complete, the next step in NHPA compliance is a Determination of (National Register of Historic Places) Eligibility for any of the resources which are likely to be impacted by project implementation. Findings of Effect and mitigation proposals follow, if a resource is determined to be significant and cannot be preserved through avoidance measures. Another missing part is the documentation of protective provisions (including monitoring, if warranted) for any cultural resource in and adjacent the APE, for which project effects can be avoided. The Advisory Council on Historic Preservation has ultimate jurisdiction on NHPA compliance and must be afforded the opportunity to comment at specific points in the process.

Regarding compliance with CEQA and the California Forestry Practices Rules, the EIS/EIR states: *The Project Area has been privately owned since the mid-1800s. Therefore, information available at the Northwest Information Center for the Project Area consists primarily of archaeological surveys conducted by CDF or Scotia Pacific in conjunction with submission of THPs, in compliance with the California Forest Practice Rules.*

The citizens of California and the rest of the country whose tax dollars may be used to purchase small reserves of PALCO land deserve a factual accounting of what is at stake here.

"Archaeological surveys" conducted in conjunction with submission of timber harvest plans are almost invariably carried out by registered professional foresters and not by professional archaeologists and historians. Despite the fact that a remarkable number of potentially-eligible historic-era resources have been identified in and near the project area, *available lists of historic properties . . . did not identify any listed properties on the PALCO or Elk River Timber Company lands.* The statement that, *photos, drawings, and/or site maps are available for a few of the sites*, suggests that these are not available for most of the sites. This is not the work of archaeologists and historians following the Secretary of the Interior's guidelines for the Identification and Treatment of Historic Properties.

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What this means is that we do not know which historic-era cultural resources are intact in the project area, although we can be certain that many potentially-significant buildings, structures, objects, linear features, and historic-era archaeological sites were at one time evident on PALCO lands. We do not know where the archaeological evidence of 5,000 years of Native American life in the project area remains, and we do not know the nature or condition of the remaining sites. The report tells us that "prehistoric sites make up a small percentage (roughly 20 percent) of the recorded sites on the PALCO lands." Of approximately five (the number is unclear) "prehistoric villages or temporary occupation camps" identified in the 40,000 acres said to be surveyed, one was, "reportedly destroyed by a bulldozer." Given the nature of PALCO's logging practices under MAXXAM management, countless other archaeological sites and traditional cultural resources may already be destroyed or in jeopardy.

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After stating on page 3.15-9, *Sites in the Project Area have the potential to yield information of importance to understanding the prehistory and history of the area. There may be additional unrecorded sites within the surveyed and unsurveyed portions of the Project Area;* the EIS/EIR suggests that a cultural resources inventory of the project area is prohibitively difficult. This notion is preposterous. Nevertheless, the writers apologize in advance: *Discovery of sites is often complicated by dense underbrush, accumulation of duff, and inaccessible topography on the forest floor. . . Discovery of prehistoric sites can be particularly difficult given poor ground surface visibility; therefore, the chances of missing prehistoric sites are higher than the chances of missing the more conspicuous historic sites.* This disclaimer makes me exceedingly uneasy. The fact is, if the proponents do not subject the project area to a systematic survey by qualified researchers, the likelihood of ephemeral prehistoric sites being destroyed unnoticed during logging, road building, etc. is extremely high. There is no excuse for leaving the responsibility of observing and protecting cultural resources up to John Campbell's, "young man driving a bulldozer in the field."

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Put simply, we cannot evaluate the potential impacts of an undertaking upon any kind of environmental resource without determining the presence, location, nature and importance of those resources within the project area. PALCO's EIS/EIR and associated documents are incomplete with regard to historic properties and traditional cultural places.

The USFWS, as lead federal agency for the project, has not fulfilled its responsibility to comply with the National Historic Preservation Act. This is a serious omission. The release of the EIS/EIR is, as a result, premature. I urge you to reject the incomplete document and recirculate it through all official and public channels when it includes a comprehensive disclosure of the environmental impacts of your proposed action.

Sincerely,

Susan E. Wilcox
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